IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
APPEAL FROM ORDER NO. 60 OF 1995

State Bank of India Appellant

Vs.

M/s.Kumson Syntex P. Ltd. Respondent

Ms.Sneha Chodnekar i/b Little & Co. for appellant.

Mr.Rajesh S. Datar for respondent nos.1 to 4.

CORAM: B.H.MARLAPALLE,J.

June 06, 2005.

ORAL ORDER:

1. In Special Civil Suit No.624 of 1994 an application at Exhibit 5 was filed by the plaintiff under Order 40 Rules 1 and 2 of C.P.C. praying for appointment of Court Receiver with directions to sell the property and to deposit the sale proceeds in the Court against the recovery of the loan amount of Rs.92,95,015/-. By the impugned order dated 1/12/1994 the learned Civil Judge Senior Division at Thane was pleased to reject the said application. This appeal was admitted on 24/1/1995 and there was no order of stay.

2. Admittedly during the pendency of this appeal Special Civil Suit No.624 of 1994 has been transferred to the Debt Recovery Tribunal and it is not known whether it is still pending. Thus the cause of action to entertain application at Exhibit 5 filed by the plaintiff in the said suit does not survive any further and the appeal has become infructuous.

3. The appeal is, therefore, dismissed as infructuous without any order as to costs.

(B.H.MARLAPALLE,J.)